UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
KE, PENG

ART UNIT	PAPER NUMBER
2174	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
> WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
>   after SIX (6) MONTHS from the mailing date of this communication.
> - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
> - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
>   Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
>   earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>03 January 2008</u>.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-13</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-13</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to communications: Amendment, filed on 1/3/08.

Claims 1-13 are pending in this application. Claims 1 and 8 are independent claims

Claim Objections

Claims 4, 5, 6, 7, 11, 12, and13 are objected to under 37 CFR 1.75(c) as being in

improper form because a multiple dependent claims and 3 and 10. See MPEP § 608.01(n).

Examiner interprets claims 4, 5, and 7 to be dependent on claim 1; and claims 11 -13 to

be dependent on claim 8.

Claim Rejections - 35 USC § 102

Claims 1-3, 5-10, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by

Gessel US Patent 5,732,213.

As per claim 1, Gessel teaches a method of setting up a communication procedure

between instances comprising the steps of:

Selecting the instances that take part in the communication procedure, one instance being

a protocol tester and another instance being an item under test. (see Gessel; column 3, lines 15-

32)

Selecting a protocol layer to be emulated by the protocol tester for testing a specified

protocol layer of the item under test on the basis of the communication procedure; (see Gessel;

column 3, lines 42-58)

Selecting abstract communication interfaces of the emulate protocol layer for the

communication procedure; (see Gessel; column 10, lines 20-32)

Selecting communication data contained in description files to be exchanged at the

abstract communication interfaces; (see Gessel; column 3, lines 15-32) and

Automatically setting up through the protocol tester the communication procedure on the

basis of the selection made in the above selecting steps, with parameters for the abstract

communication interface and the communication data selecting steps being made graphically.

(see Gessel; column 6, lines 60-lines 70)

As per claim 2, Gessel teaches the method of claim 1. Gessel further teaches the

instances selecting step comprises the step of selecting the instances graphically, (see Gessel,

column 11, lines 55-column 12, lines 10) and/or the emulated protocol layer selecting step

comprises the step of selecting the emulated protocol layer graphically, and the parameters

selectable in these steps being assigned description files that are used in the setting up step. (see

Gessel, column 11, lines 55-column 12, lines 10)

As per claim 3, Gessel teaches the method of claim 1 or 2. Gessel further teaches the

abstract communication interfaces comprise Service Access Points (SAPs). (see Gessel; column

5, lines 35-50)

As per claim 5, Gessel teaches the method of claim 1. Gessel teaches the communication

data selecting step comprises the steps of:

Graphically selecting a data format; and

Graphically setting a communication sequence between the selected instances. (see

Gessel; column 11, lines 35-80)

As per claim 6, Gessel teaches the method of claim 5. Gessel further teaches the

graphically setting up step comprises the step of entering source code. (see Gessel; Column 7,

lines 55-70: Script is a source code)

As per claim 7, Gessel teaches the method of claim 1, Gessel further teaches all

parameter that may be selected are assigned description files, which are used in step e) for setting

up a communication procedure that may be executed between the instance. (see Gessel, col. 7,

lines 54-col. 8, lines 19)

As per claims 8-10 they are the means claims of claims 1-3.

As per claim 13, Gessel teaches the method of claim 8. Gessel further teaches all

parameters selected by all the selecting means are assigned description files that are used by the

setting up means. (see Gessel; Column 7, lines 55-70; Script is a description files)

Claim Rejections - 35 USC § 103

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gessel

US Patent 5,732,213 in view of Matsui US Patent 6,560,723.

As per claim 4, Gessel teaches the method of claim 1.   However, Gessel fails to teach the

communication data comprise at least one type selected from the group consisting of Protocol

Data Units (PDUs) and Abstract Service Primitives (ASP)

Matsuit teaches the communication data comprise at least one type selected from the

group consisting of Protocol Data Units (PDUs) and Abstract Service Primitives (ASP) (see

Matsuit, column 1, lines 55-column 2, lines 10)

It would have been obvious to an artisan at the time of the invention to include Matsuit's

teaching with method of Gessel in order to create a scenario for use in a conformation test.

As per claim 11, which is dependent on claim 8, it is rejected under same rationale as 4.

Supra.

Response to Argument

Applicant's arguments filed on 1/3/08 have been fully considered but they are not

persuasive.

Applicant argued that Gessel fails to teach selection of a protocol layer.

Examiner disagrees. Gessel teaches this limitation because it allows user to select the

protocol hardware notes that are tested by the emulating software. (see Gessel; column 8, lines

25-30) By selecting hardware notes, user in fact is selecting different protocol layer because

different hardware notes are correlated with different protocol layer test. (see Gessel; column 8,

lines 30; For example; selection of Interact socket between OSI stack would only be testing

layer 3 of protocol layer; column 5, lines 20-25; selection of TCP Note would only be testing

layer 4 of protocol)

Furthermore, nowhere in the applicant's specification supports the limitation of selecting

"a specific protocol layer." (see applicant's specification) In fact, a testing of one specific

protocol layer may be impossible because a testing higher protocol layer requires the testing of

all its lower protocols. (see Gessel; column 1, lines 40-45) For example, the testing of protocol

layer 3 would require the successful testing of protocol layers 1 and 2 because layer 3 is software

protocol, and for a software protocol to work, the physical protocols, layer 1 and 2, must function

successfully first. (see Gessel; column 1 ,lines 45-70)

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peng Ke whose telephone number is (571)272-4062. The examiner can normally be reached on M-Th and Alternate Fridays 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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